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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Lindsey Lin

Applicant : Toshio Yamawaki
Application No. : 09/530,145
Filed : April 24, 2000
Title : COMMUNICATION GATEWAY

Confirmation No.5367

Grp./Div. : 2667
Examiner : Alexander O. Boakye

Docket No. : 37395/A400
Customer No. : 23363

**SECOND RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
March 14, 2006

Commissioner:

By certificate of mailing dated December 19, 2005, a RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) was filed.

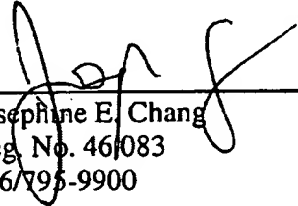
The February 15, 2006, DECISION ON PETITION dismissed the Renewed Petition for having failed to provide copies of docket records where the non-received Notice would have been entered had it been received and docketed. Specifically, the Examiner required docket records for February 2, 2005, through March 2, 2005. In response, enclosed is a Declaration of Daniel G. Ferris with attached Screenprints "A-C" of our docket records which indicate where the non-received Notice would have been entered had it been received. In a February 28, 2006, telephone conversation with Daniel G. Ferris, supervisor of the docketing department for Christie, Parker & Hale, the Examiner agreed that the attached Screenprints sufficiently evidenced the docket records for the time period in question. Thus all the requirements of M.P.E.P. 711.03(c) have been satisfied.

Application No. 09/530,145

In view of what has been stated and the enclosed copy of the docket record, and the supporting evidence submitted in the October 10, 2005, PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), Applicant renews its petition to withdraw holding of abandonment without a petition fee, and requests that this application be passed to active status. However, the Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account. A copy of this letter is enclosed.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By


Josephine E. Chang
Reg. No. 46083
626/795-9900

JEC/rjl

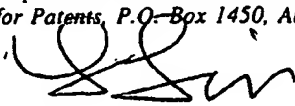
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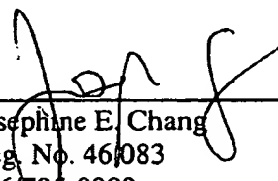
Application No. 09/530,145

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Josephine E. Chang
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Lindsey Lin

Applicant : Toshio Yamawaki
Application No. : 09/530,145
Filed : April 24, 2000
Title : COMMUNICATION GATEWAY

Confirmation No.5367

Grp./Div. : 2667
Examiner : Alexander O. Boakye

Docket No. : 37395/DBP/A400

DECLARATION OF DANIEL G. FERRIS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
October 10, 2005

Commissioner:

I, Daniel G. Ferris, declare as follows:

1. I am the Supervisor of the Docketing Department of Christie, Parker & Hale, LLP. I have been employed in this capacity for about the past 10 years.

2. In the regular course of business in my department, my department docketed all U.S. Patent and Trademark Office mail, on a daily basis, received by Christie, Parker & Hale. I have reviewed our log for entries relating to U.S. Application Ser. No. 09/530,145, and have confirmed that our office did not receive a Notice of Non-Compliant Amendment dated February 2, 2005.


3. Attached are Sreenprints "A-C". Screenprint "A" is our "application record". Screenprint "B" is a partial list of the actions which have been docketed against this record. The red arrow points to where the Notice of Non-Compliant Amendment dated February 2, 2005, would have been entered, had it been received. Screenprint "C" is our action record for the

Application No. 09/530,145

previous office action of July 9, 2004, wherein it is shown that our follow-up action for receipt of the next PTO office action was not closed until October 10, 2005, i.e. at the time we learned of the abandonment of the application by way of a review of the PTO PAIR records. Had the February 2, 2005, Notice of Non-Compliant Amendment been received, the follow up action would have been closed at the time of such receipt, i.e. sometime in February of 2005.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date 3/14/06

By 

Daniel G. Ferris

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① DBP
② JEC

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FEB 17 2006

D BRUCE PROUT
CHRISTIE PARKER & HALE
350 WEST COLORADO BLVD.
SUITE 500
PASADENA, CA 91150

~~Christie, Parker & Hale, LLP~~

CASE # **37395** ACTION _____
REMINDER _____ DUE DATE _____
DEADLINE _____

COPY MAILED

FEB 15 2006

In re Application of

Toshio Yamawaki

Application No. 09/530,145

Filed: April 24, 2000

Atty Docket No.: 37395/DBP/A400

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OFFICE OF PETITIONS

DECISION ON
PETITION

This is a decision in response to the Renewed Petition to Withdraw Holding of Abandonment Due Under 37 CFR 1.181(a), filed December 21, 2005.

This Petition is hereby dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly respond to the Notice of Non-Compliant Amendment ("Notice"), mailed February 2, 2005. The Notice set a one (1) month period for reply. No response having been received, the application became abandoned on March 3, 2005. A Notice of Abandonment was mailed October 17, 2005.

October 10, 2005 Petition under 37 CFR 1.181

Applicant filed a petition on October 10, 2005 wherein Applicant asserted that he did not receive the Office action. In support of this assertion, Applicant filed Declarations of the Supervisor of the Docketing Department, and of the Legal Assistant to Applicant asserting that reviews of the log entries and file reveal that the Notice was not received. Applicant also filed copies of the weekly prosecution calendars for the

attorneys responsible for the prosecution of the above-identified application, putatively for the period of February 2, 2005 through March 2, 2005, which was allegedly where the non-received Notice would have been entered had it been received. Petition at p.2.

Petitioner was advised that, "[i]n order to overcome the presumption of delivery of an Office action, a practitioner must submit the following:

- (1) A statement from the practitioner stating the Office action was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received, and
- (3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP 711.03(c)

A review of the copies of the weekly prosecution calendars for the attorneys responsible for the prosecution of the above-identified application, putatively for the period of February 2, 2005 through March 2, 2005, revealed the dates of the calendar to be February 28, 2004 through March 14, 2004, and NOT February 2, 2005 through March 2, 2005. Applicant had failed to provide copies of his docket record where the non-received Notice would have been entered had it been received and docketed.

As such, the petition under 37 CFR 1.181 was dismissed in a Decision mailed November 23, 2005.

The instant petition

Applicant files the instant petition and docket records for the period of February 26, 2005 through March 13, 2005, and a Renewed Declaration of Daniel T. Ferris referencing the docket records for the period of February 26, 2005 through March 13, 2005.

However, the Notice in question was mailed by this Office on February 2, 2005, three (3) weeks BEFORE the docket records filed with the instant petition begin. Applicant must file docket records relevant to the period of time in question. I.e. February 2005.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply any and all relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to 'show' non-receipt of the Office action. Therefore, if a request for reconsideration is filed, it must establish non-receipt of the Office communication.


Further correspondence with respect to this matter should be addressed as follows:

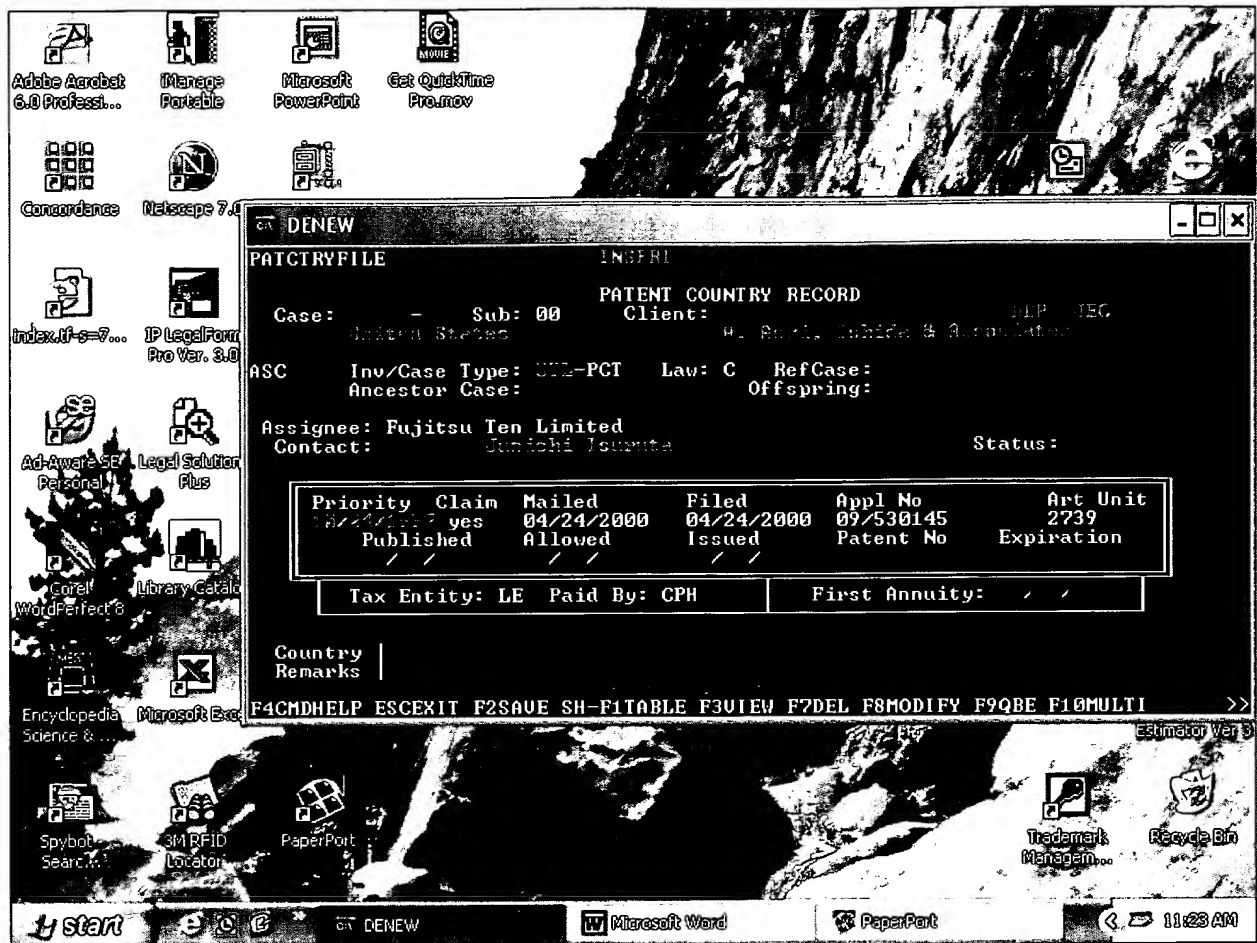
By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



Screenprint 'A'



Document2 - Microsoft Word

File Edit View Insert Format Tools Table Window Manage Help Adobe PDF Acrobat Comments Type a question for help

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Final Showing Markup Show

DENEW

PATCIRYFILE INSERT

Assoc ID:
Ref Num:

Status	ActCode	Action	Due/Dead	Resp Date
CLOSED	2322	OFFICE ACTION 13 MONI	12/27/2003	09/29/2003
CLOSED	2322	OFFICE ACTION 13 MONI	06/30/2004	03/31/2004
CLOSED	2112-1	SUPPL PRIOR 231 FILED	12/02/2004	07/09/2004
CLOSED	2322	OFFICE ACTION 13 MONI	01/09/2005	10/08/2004
CLOSED	2921	PETITION TO RESOLVE FILED	01/08/2006	05/23/2005
CLOSED	2246	PETITION DISMISSED	01/23/2006	12/19/2005

Page Down for more

Dktg Rmk: Filing Audit: / / By: Issue Audit: / / By:

F4CMDHELP ESCEXIT F2SAVE SH-FITABLE F3UIEW F7DEL F8MODIFY F9QBE F10MULTI >>

Page 1 Sec 1 1/1 At 1 Ln 1 Col 2 REC TRK EXT OVR

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Screenprint 'B'

Microsoft Word

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viewpatactions INSERT

Case: 37395-USA Sub: 22 ACTION FILE PAT 2420
UTL-PCI C DEP SEC

Code	Action Description	Act Date	Received
R322	OFFICE ACTION IS NON	07/09/2004	07/13/2004

Tasks	Date	Indicator
RESPONSE DUE	10/09/2004	
RESPONSE & EXT	11/09/2004	
RESPONSE & EXT	12/09/2004	
RESPONSE & EXT DEADLINE	01/09/2005	

01/09/2005

RESP: 10/08/2004 AMENDMENT FILED Ackd:
FU: 07/08/2005 FU: NEXT PTC ACTION Closed:
By:

Rmk:

USA patent. Alt Resp: R320 (Response Filed).

Date	Event	Pat	Ln	Col	REC	TRK	EXT	OVR
10/24/1997	04/24/2000	10	11	12	13	14	15	16
37395PCT00		10	11	12	13	14	15	16

F4CMDHELP ESCXIT F2SAVE SH-F1TABLE F3VIEW F7DEL F8MODIFY F9QDE F10MULTI >>

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Screenprint 'C'

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☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY

☒ OTHER: Last 3 pages are color screenprints "A-C" submitted along with
a Declaration of Daniel G. Ferris: Part of PET.OP dated 3/16/06

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